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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584.701	06/01/2000	Irene Lin	SLA 001	5051

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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER

ROCHE, LEANNA M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/16/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/584,701	Applicant(s) LIN, IRENE	
Examiner Leanna Roche	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2002.
- 2a) ☒ This action is **FINAL**.
- 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
 - 4a) Of the above claim(s) 19-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 April 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 - * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1771

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-7, 10-12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (USPN 4404241) substantially as set forth in Paper No. 6, paragraph 13.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mueller et al. (USPN 4404241) substantially as set forth in Paper No. 6, paragraph 14.

Art Unit: 1771

5. Claims 9, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (USPN 4404241) substantially as set forth in Paper No. 6, paragraph 15.

6. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (USPN 4404241) as applied to claims 1 and 10 above, and further in view of Inoue (USPN 4769175) substantially as set forth in Paper No. 6, paragraph 16.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (USPN 4404241) as applied to claim 1 above, and further in view of Mazurek et al. (USPN 5362500) substantially as set forth in Paper No. 6, paragraph 17.

Response to Arguments

8. Applicant's amendments to the drawings are sufficient to overcome the previous objections in Paper No. 6, paragraphs 2 and 3. Applicant's amendments to claims 4, 11, 12, 14, 16 and 18 are sufficient to overcome the rejections under 112, second paragraph set forth in Paper No. 6, paragraphs 5-10. With regard to claims 4, 12 and 14, the amendment "ethylene/methacrylic acid (E/MAA) ionomer, is sufficient to replace the trademark SURLYN.

9. Applicant's arguments filed April 25, 2002, with regard to the prior art rejections set forth in Paper No. 6, have been fully considered but they are not persuasive.

10. Applicant argues that by using an impression process, “both the weight and appearance of their substrate remain the same”. This argument is not found persuasive because it is not commensurate in scope with the language of the claims. Applicant’s claims are not directed to a substrate treated by an impression process, nor do they claim an unaltered weight or appearance. Additionally, Applicant’s specification specifically states that “after the impression process, the structures 100 in Figures 1A to 1C are permanently damaged, forming the structures 102 in Figures 2A to 2C, respectively”, see page 9, lines 7-9. This statement, as well as Applicant’s figures, appears to contradict Applicant’s present argument that the appearance of their substrate remains unchanged following an impression process.

11. Applicant argues that Mueller’s process of manufacturing is different from their impression process. This argument is not found persuasive because Applicant’s claims are not directed to any method of manufacturing.

12. Applicant contends that “the size of the apertures in the Mueller invention [are] constant and [they are] too large to provide a function of adjusting permeability.” However, the final product of Mueller possesses apertures of adjustable size as a result of a composite film comprising two layers. Muellers gaps are initially pseudo-closed by a sealing layer which allows the gaps to increase in size when greater pressure is applied to one side of the polymer composite layer. This reads on Applicant’s amended

Art Unit: 1771

claim language which states, "a plurality of tiny gaps which are pseudo-closed for air permeation initially, the size of the tiny gaps being varied according to a pressure difference between the two sides of the polymer composite layer." Additionally, the size of Mueller's apertures is irrelevant 1) because the prior art is not limited to the scope of their working examples, and 2) because there is no definition of the actual size of Applicant's "tiny gaps" in Applicant's claims or specification.

13. Applicant contends that while Mueller must use an additional hot melt material for permeability control, the nonstick sealing layer for Applicant's present invention is optional, as disclosed in Applicant's claim 10. However, Applicant's claim 10 is directed to a composite film comprising a first layer and a second layer laminated on the first layer. The hot melt material of Mueller reads on Applicant's second layer laminated on the first layer. Therefore, this argument is not found persuasive.

14. Finally, Applicant states that in the instant invention, the mechanism of permeability control is based on the gap size; whereas, the mechanism of permeability control in Mueller's invention is based on the flow rate of the hot melt material in the melting state. However, Applicant's specification states,

When the composite film structure 102 comes into contact with hot air, the heat of the hot air will degrade the sealing ability of the sealing layer 15, opening the pseudo-closed tiny gaps 14, and the hot air can easily permeate through the sealed gaps 15 of the polymer composite layer

Art Unit: 1771

when the air pressure exerted by the hot air on the first side of the composite film is greater than the air pressure on the other side of the composite film structure 102.

Therefore, because both Applicant and Mueller use temperature and pressure to adjust the gap size by degrading the sealing layer, this argument is not found persuasive.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leanna Roche whose telephone number is 703-308-

Application/Control Number: 09/584,701
Art Unit: 1771

Page 7

6549. The examiner can normally be reached on Monday through Friday from 8:30 am to 6:00 pm (with alternate Mondays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Lanna Roche

Imr
July 8, 2002

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER